

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SANTANA ROW HOTEL PARTNERS, L.P., ) CASE NO.: C 05-00198 JW

Plaintiff,

v.

ZURICH AMERICAN INSURANCE  
COMPANY, GALLAGHER-PIPINO, INC.,  
and ARTHUR J. GALLAGHER & CO.

Defendants.

**STIPULATION AND ORDER REGARDING  
THE CHANGE OF CERTAIN DATES IN  
THE SCHEDULING ORDER**

ZURICH AMERICAN INSURANCE  
COMPANY,

Cross-Complainant,

v.

GALLAGHER-PIPINO, INC.

Cross-Defendant.

Second Amended Complaint Filed: June 20, 2006

WHEREAS, counsel for plaintiff Santana Row Hotel Partners, LP is scheduled to conduct two multi-week trials within the next 45 days and has conducted an unsuccessful settlement conference this week relating to one of the trials, which is now set to proceed next week, and does not currently expect either matter to resolve informally;

1 WHEREAS, on June 20, 2006, the Court granted Plaintiff Santana Row Hotel Partners, LP  
2 leave to file a second amended complaint, supplementing its causes of action against the broker  
3 defendants;

4 WHEREAS, the parties have and continue to conduct written discovery and to seek to resolve  
5 discovery disputes informally, and have and continue to resolve scheduling conflicts concerning the  
6 taking of oral depositions;

7 WHEREAS, approximately 300,000 documents have been produced by the parties and third-  
8 party witnesses in the discovery in this litigation, with further production of documents expected;

9 WHEREAS, Defendant Zurich has conducted 19 depositions on the issues of insurance  
10 coverage and damages. Plaintiff has conducted three depositions (including an extensive 30(b)(6)  
11 deposition) and has noticed but not commenced another deposition, and the Gallagher defendants  
12 have noticed and commenced, but not yet completed, one deposition on the issue of insurance  
13 coverage;

14 WHEREAS, pursuant to the October 26, 2005 Scheduling Order, as amended by Orders  
15 dated January 10, 2006, March 13, 2006, September 6, 2006 and October 10, 2006, the parties' Rule  
16 26 expert disclosures are to be served on November 3, 2006, and the parties' motion(s) for partial  
17 summary judgment regarding liability on the first and second claims for relief in Plaintiff's second  
18 amended complaint are scheduled for hearing on December 4, 2006;

19 WHEREAS, all of the parties agree that the dates in the Scheduling Order should be changed  
20 to allow the parties to complete discovery, to engage in a more productive expert witness exchange,  
21 to otherwise narrow the issues for the submission of dispositive pre-trial motions, and to prepare for  
22 trial; and

23 WHEREAS, all parties agree that, in light of the complexity of the issues in dispute and the  
24 nature and scope of the issues to be litigated, the changes requested herein are necessary to the  
25 productive and orderly handling of this matter;

26 ///

27 ///

28 ///

1 IT IS THEREFORE STIPULATED by and between the parties hereto, through their  
2 respective counsel of record, as follows:

- 3 1. The date regarding expert witness disclosure referenced in paragraph 4 of the  
4 Scheduling Order is changed from November 3, 2006 to November 22, 2006;
- 5 2. The date regarding the disclosure of rebuttal expert witnesses referenced in paragraph  
6 8 of the Scheduling Order is changed from November 30, 2006 to December 29,  
7 2006;
- 8 3. The date regarding the hearing of motions to exclude experts/expert testimony  
9 referenced in paragraph 7 of the Scheduling Order is changed from January 15, 2007  
10 to March 19, 2007;
- 11 4. The date regarding the close of discovery referenced in paragraph 10 of the  
12 Scheduling Order is changed January 8, 2007 to February 23, 2007;
- 13 5. The hearing date for motions or cross-motions for partial summary judgment on  
14 liability under the first two claims for relief of Plaintiff's second amended complaint  
15 is changed from December 4, 2006 to January 22, 2007, with all motions and cross-  
16 motions (if any) to be filed on November 20, 2006; all oppositions to be filed on  
17 December 18, 2006; and all replies (if any) to be filed on January 8, 2007;
- 18 6. The last date for hearing of dispositive motions is changed from February 12, 2007 to  
19 April 16, 2007; and
- 20 7. The date for the filing and lodging of the Preliminary Pretrial and Trial Setting  
21 Conference statement is changed from February 26, 2007 to May 11, 2007, and the  
22 date for the Preliminary Pretrial and Trial Setting Conference is changed from March  
23 12, 2007 to May 21, 2007.

24  
25 Dated: October 13, 2006

RUBY & SCHOFIELD

26  
27 By: 

Steven A. Ellenberg

28 Attorneys for Plaintiff, Santana Row  
Hotel Partners, L.P.

1 Dated: October 13, 2006

JONES TURNER, LLP

2  
3 By: 

Steven D. Turner

4 Attorneys for Defendant, Zurich  
5 American Insurance Company

6 Dated: October 13, 2006

SELVIN WRAITH HALMAN, LLP

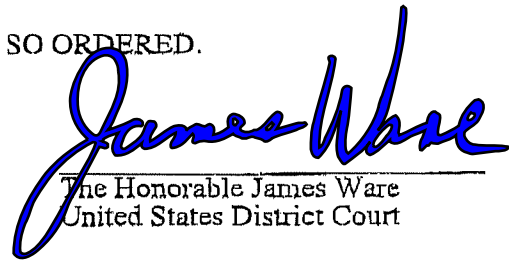
7  
8 By: 

Gary R. Halvin

9 Attorneys for Defendants, Gallagher  
10 Pipino, Inc. and Arthur J. Gallagher &  
11 Company.

12 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

13  
14 Dated: 10/17, 2006

  
The Honorable James Ware  
United States District Court